



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

RECEIVED

DEC 23 2002

DEC 13 2002

BUREAU OF WATER

Mr. Clyde D. Graeber, Secretary
Kansas Department of Health & Environment
400 S.W. 8th Ave., Ste 200
Topeka, KS 66603

Dear Mr. Graeber:

Re: Neosho Basin TMDLs

This letter is in response to the Kansas submissions dated November 6, 2002, and November 20, 2002, in which 15 Total Maximum Daily Loads (TMDLs) for waterbodies located in the Neosho Basin have been submitted for approval. In addition to fulfilling the Clean Water Act statutory requirement to develop TMDLs for those waters listed on a state's §303(d) list, this submission was made pursuant to Paragraph 7 of the Consent Decree entered on April 13, 1998. The Environmental Protection Agency (EPA) received 14 final TMDLs from the Kansas Department of Health and Environment (KDHE) addressing 52 water quality limited segments (WQLS) on November 7, 2002, and one additional TMDL addressing a single WQLS on November 21, 2002. KDHE also submitted three revised final TMDLs on November 21, 2002, and two additional revisions on December 10, 2002.

In the November 6, 2002, submission letter, Kansas determined eight waterbody segments identified on the Kansas 1998 §303(d) list as impaired, no longer require TMDLs to be established. Kansas has provided data supporting the lack of impairment in each of these waterbodies.

1. Deer Creek (9) - pH
2. Carlyle Creek (47) - pH
3. Owl Creek (19), (21) - pH
4. Bloody Run (25) - pH
5. Plum Creek (22) - pH
6. Cherry Creek (20) - pH
7. Owl Creek (21) - Selenium

Kansas' determination not to develop TMDLs for the eight waterbody segments listed above is consistent with paragraph five of the above referenced Consent Decree which reads:

"In fulfilling their obligations under this Consent Decree, Kansas is under no obligation to submit TMDLs to EPA nor is EPA under any obligation to establish TMDLs either (a) that are determined not to be needed consistent with Section 303(d) of the CWA and its implementing regulations, as either may be amended from time to time, including, but not limited to, 40 C.F.R. §130.7(b)(1), or (b) for WQLSs or pollutants that were on Kansas' 1996 Section 303(d) list but, consistent with the provisions of the CWA and its implementing regulations, were removed from any subsequent Kansas Section 303(d) list."

EPA has completed its review of 13 of the 15 TMDLs with supporting documentation and information. EPA awaits KDHE's submission of the John Redmond siltation and eutrophication TMDL revisions. By this letter EPA approves 13 of the 15 TMDLs submitted and concurs with KDHE's decision not to develop eight additional waterbodies in which data support a lack of impairment (enclosure A). Enclosed with this letter are Region 7 TMDL Review Forms which summarize the rationale for EPA's approval of each of these 13 TMDLs. EPA believes the separate elements of the TMDLs described in the enclosed forms adequately address the pollutants of concern, taking into consideration seasonal variation and a margin of safety.

EPA is currently engaged in consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service regarding these TMDLs. While EPA is approving these TMDLs at the present time, EPA may decide that changes to the TMDLs are warranted based upon the results of the consultation when it is completed.

EPA commends the State of Kansas on its efforts to submit the Neosho Basin TMDLs ahead of the schedule set in the Consent Decree. EPA appreciates the thoughtful effort that Kansas has put into these TMDLs and will continue to cooperate with and assist, as appropriate, in future efforts by Kansas to develop TMDLs.

Sincerely,



Leo J. Alderman
Director

Water, Wetlands, and Pesticides Division

Enclosures

cc: ✓ Tom Stiles, KDHE, Topeka, KS
John Simpson, KNRC, Inc., Kansas City, MO

ENCLOSURE A

Neosho Basin TMDLs

Submitted to EPA for approval November 6 and November 20, 2002

<i>WATERBODY NAME</i>	<i>BASIN</i>	<i>SEGMENT ID</i>	<i>POLLUTANT</i>
Allen (Dows) Creek	Neosho	3, 5	FCB
Dow Creek	Neosho	4	
Stillman Creek	Neosho	44	
Non-WQLS: Taylor Creek	Neosho	46	
Big Creek	Neosho	14	FCB
North Big Creek	Neosho	16	
South Big Creek	Neosho	17	
Varvel Creek	Neosho	43	
Cottonwood River	Neosho	1	Chlordane
Cottonwood River	Neosho	1, 2, 3 - 11070202	FCB
Diamond Creek	Neosho	2, 4, 6 - 11070203 3	
Cottonwood River	Neosho	1, 2, 3 - 11070202	Sulfate
Doyle Creek	Neosho	2, 4, 6 - 11070203 21	
Clear Creek	Neosho	4, 5	
E. Branch Clear Creek	Neosho	24	
South Cottonwood River	Neosho	17, 18	
French Creek	Neosho	16	
Cottonwood River, South	Neosho	17, 18	FCB
Antelope Creek	Neosho	19	
Stony Brook	Neosho	25	
Non-WQLS: Unnamed Segment	Neosho	456	
Cow Creek	Neosho	16	Chlordane
East Cow Creek	Neosho	24	
First Cow Creek	Neosho	27	
Non-WQLS: Long Branch	Neosho	21	
Taylor Branch	Neosho	25	
Brush Creek	Neosho	26	
Clear Creek	Neosho	28	
Deer Creek	Neosho	9	FCB
Carlyle Creek	Neosho	47	
Non - WQLS: Cottonwood Creek	Neosho	48	

<i>WATERBODY NAME</i>	<i>BASIN</i>	<i>SEGMENT ID</i>	<i>POLLUTANT</i>
French Creek	Neosho	16	DO
Mud Creek	Neosho	6	FCB
Neosho River	Neosho	15, 17, 18	pH
Sutton Creek	Neosho	35	
Village Creek	Neosho	33	
Non-WQLS: Turkey Creek	Neosho	32	
Little Turkey Creek	Neosho	397	
Owl Creek	Neosho	19, 21	FCB
Bloody Run	Neosho	25	
Cherry Creek	Neosho	20	
Plum Creek	Neosho	22	
Non-WQLS: South Owl Creek	Neosho	552	
Turkey Creek	Neosho	18	FCB

DELISTINGS:

<i>WATERBODY NAME</i>	<i>BASIN</i>	<i>SEGMENT ID</i>	<i>POLLUTANT</i>
Deer Creek	Neosho	9	pH
Carlyle Creek	Neosho	47	
Owl Creek	Neosho	19, 21	pH
Bloody Run	Neosho	25	
Plum Creek	Neosho	22	
Cherry Creek	Neosho	20	
Owl Creek	Neosho	21	Selenium

TOTALS:

TMDLS - 13
WQLS's - 51
Non-WQLS's - 10
Delistings - 8